

Appl. No. 09/749,480
Amendment dated Dec. 11, 2003
Reply to Office action of Sept. 15, 2003
Docket No. 6169-141

IBM Docket No BOC9-1999-0084

REMARKS/ARGUMENTS

These remarks are made in response to the Office Action of September 15, 2003 (Office Action). As this response is timely filed within the 3-month shortened statutory period, no fee is believed due.

In paragraph 3 of the Office Action, claims 1, 2-4, 8, 10, 12, 14, 15, and 19-23 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,956,020 to D'Amico *et al.* (D'Amico). In paragraph 4, claims 6, 7, 17, and 18 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Publication No. U.S. 2002/0025837 (Levy) in view of D'Amico, in further view of U.S. Patent No. U.S. 4,868,912 to Doering.

In paragraph 5, claims 5, 9, 11, 16, and 20 have been objected to only inasmuch as each is dependent upon a rejected base claim. The Examiner has indicated that these claims would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The Applicants respectfully note that claim 2 was cancelled in the previous response.

In response to the rejections on the art, the Applicants have enclosed affidavits under 37 C.F.R. § 1.131 supporting the removal of Levy. The affidavit is accompanied by a copy of the Applicants' confidential invention disclosure entitled "Method for detecting finger versus stylus touch on touchscreen and corresponding optimization of touch location." The confidential invention disclosure and affidavits demonstrate proof of conception for the claimed subject matter of the Applicants' invention at least as early as November 2, 1999, which predates the effective date of Levy. The Applicants further exercised due diligence from prior to the effective date of Levy until December 26, 2000, the filing date of the instant application. Accordingly, withdrawal of the 35 U.S.C. § 103(a) rejection with respect to claims 1, 3-4, 6-8, 10, 12, 14-15, 17-19, 21-23 is respectfully requested.

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The Applicants believe that this application is now in full condition for allowance, which action is respectfully requested. The Applicants request that the Examiner call the undersigned if clarification is needed on any matter within this Amendment, or if the Examiner believes a telephone interview would expedite the prosecution of the subject application to completion.

Respectfully submitted,

Date: 12/11/03

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